

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

CIVIL ACTION NO:

LAKEVIEW LOAN SERVICING, LLC

PLAINTIFF

v.

ANGELA L. BROWN AND JOSEPH CAROTO

DEFENDANTS

COMPLAINT FOR FORECLOSURE

NOW COMES the Plaintiff, Lakeview Loan Servicing, LLC, by and through its attorneys, Bendett & McHugh, P.C., and complains against the Defendant(s) pursuant to 14 M.R.S. § 6321 et seq., saying further as follows:

JURISDICTION AND VENUE

1. This Court has diversity jurisdiction pursuant 28 U.S.C. § 1332 because the Plaintiff and Defendants are citizens of different states and the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. Any Court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought under 28 U.S.C. § 2201.

2. Venue is properly exercised pursuant to 28 U.S.C. §1391(b)(2) insofar as all or a substantial portion of the events that give rise to the Plaintiff's claims transpired in Maine and the property is located in Maine.

PARTIES

3. Lakeview Loan Servicing, LLC, ("Plaintiff") is a limited liability company incorporated in the State of Delaware, having a principal place of business at 4425 Ponce De Leon Boulevard MS5-251, Coral Gables, FL 33146
4. The Defendants, Angela L. Brown and Joseph Caroto, are residents of the Town of Limington, County of York and State of Maine.

FACTS

5. Defendants Angela L. Brown and Joseph Caroto are the owners of certain real property located at 546 Ossipee Trail, Limington, Maine (the "Premises") by virtue of a deed from Amanda Flint, Personal Representative of the Estate of Douglas A. Flint, dated December 9, 2016, and recorded in the York County Registry of Deeds on December 9, 2016 in Book 17381 at Page 980 and being more particularly described by the attached legal description. *See* Exhibit A.
6. On December 9, 2016, the Defendant, Angela L. Brown, executed and delivered to American Financial Resources, Inc. a certain promissory note in the original principal amount of \$102,513.00 (the "Note"). *See* Exhibit B.
7. The Plaintiff is entitled to enforce the Note as the Note is endorsed in blank.
8. Plaintiff certifies that the owner of the Note is Lakeview Loan Servicing, LLC.
9. To secure said Note, in the amount of \$102,513.00, the Defendants, Angela L. Brown and Joseph Caroto, executed and delivered a Mortgage in favor of Mortgage Electronic

Registration Systems, Inc., as nominee for American Financial Resources, Inc., dated December 9, 2016 and recorded in the York County Registry of Deeds in Book 17381 at Page 982 securing the property located at 546 Ossipee Trail, Limington, ME, 04049 (the “Mortgage”). *See* Exhibit C.

10. Said Mortgage was assigned from Mortgage Electronic Registration Systems, Inc., as nominee for American Financial Resources, Inc. to Plaintiff by an Assignment of Mortgage, dated May 8, 2018 and recorded on May 21, 2018 in Book 17716 at Page 713 of the York County Registry of Deeds. *See* Exhibit D1.
11. Said Mortgage was assigned from American Financial Resources, Inc. to Plaintiff by a Quitclaim Assignment of Mortgage, dated July 27, 2018 and recorded on August 13, 2018 in Book 17777 at Page 798 of the York County Registry of Deeds. *See* Exhibit D2.
12. Plaintiff, directly or through its agent, is in possession of the original Note, Mortgage and any assignments.
13. Plaintiff is the party entitled to collect the debt evidenced by said Note and is the party entitled to enforce the Mortgage, and has the right to foreclose the Mortgage.
14. Defendants Angela L. Brown and Joseph Caroto are presently in default of the Note, having failed to make the monthly payment due November 1, 2017, and having failed to make all payments due thereafter. As a result thereof, Defendants have breached a condition of the Mortgage.
15. In compliance with the Note and Mortgage and/or 14 M.R.S.A. § 6111, on or about September 4, 2018, Plaintiff sent a Notice of Default to the mortgagor and any co-signor against whom the mortgagee is enforcing the obligation secured by the mortgage, by

certified mail, return receipt requested and/or by regular mail, postage prepaid (herein after referred to as the “Demand Letter”). *See* Exhibit E.

16. The Defendants, Angela L. Brown and Joseph Caroto, have failed to cure the default prior to the expiration of the Demand Letter. In accordance with the Note and the Mortgage, the Plaintiff has declared the entire principal amount outstanding, accrued interest thereon, and all other sums due under the Note and Mortgage to be presently due and payable.
17. The total unpaid principal balance owed under the Note and Mortgage as of July 23, 2018 is One Hundred Thousand Six Hundred Forty-three and 30/100 dollars (\$100,643.30) plus interest, late charges, expenses and reasonable attorney’s fees and costs.
18. Plaintiff anticipates that additional disbursements will be made for attorney’s fees and other services rendered during the foreclosure and sale.
19. Upon information and belief, the Defendants, Angela L. Brown and Joseph Caroto, are presently in possession of the subject property originally secured by the Mortgage.

COUNT I – FORECLOSURE

20. The Plaintiff, Lakeview Loan Servicing, LLC, repeats and realleges paragraphs 1 through 19 as if fully set forth herein.
21. This is an action for foreclosure and title to real estate located at 546 Ossipee Trail, Limington, ME, 04049, County of York, and State of Maine. *See* Exhibit A.

22. The Plaintiff, Lakeview Loan Servicing, LLC, is the holder of the Note pursuant to endorsement by the previous holder and physical possession of the Note. As such, Plaintiff has the right to foreclosure upon the subject property.
23. Lakeview Loan Servicing, LLC is the current owner and investor of the Mortgage and Note.
24. The Defendants, Angela L. Brown and Joseph Caroto, are presently in default on said Mortgage and Note, having failed to make the monthly payment due November 1, 2017. As a result, Angela L. Brown and Joseph Caroto have breached the condition of the Mortgage and Note.
25. The total unpaid principal balance owed under the Note and Mortgage as of July 23, 2018 is One Hundred Thousand Six Hundred Forty-three and 30/100 dollars (\$100,643.30) plus interest, late charges, expenses and reasonable attorney's fees and costs.
26. The record established through the York County Registry of Deeds indicates that there are no public utility easements recorded subsequent to the Mortgage and prior to the commencement of these proceedings affecting the mortgaged premises at issue herein.
27. By virtue of the Defendant Angela L. Brown's breach of condition, the Plaintiff, Lakeview Loan Servicing, LLC, hereby demands a foreclosure on said real estate.
28. Notice in conformity with 14 M.R.S.A. §6111 was sent to the Defendants, Angela L. Brown and Joseph Caroto, on September 4, 2018 as evidenced by the Certificate of Mailing. *See* Exhibit F.
29. The Defendants, Angela L. Brown and Joseph Caroto, are not in the Military as evidenced by the attached Exhibit G.

COUNT 11 – UNJUST ENRICHMENT

30. The Plaintiff, Lakeview Loan Servicing, LLC repeats and re-alleges paragraphs 1 through 29 as if fully set forth herein.
31. American Financial Resources, Inc., predecessor-in-interest to Lakeview Loan Servicing, LLC, loaned the Defendant, Angela L. Brown, \$102,513.00. See Exhibit B.
32. The Defendant, Angela L. Brown, has failed to repay the loan obligation pursuant to the terms of the Note and Mortgage.
33. As a result, the Defendants, Angela L. Brown and Joseph Caroto, have been unjustly enriched to the detriment of the Plaintiff, Lakeview Loan Servicing, LLC, as successor-in-interest to Mortgage Electronic Registration Systems, Inc., as nominee for American Financial Resources, Inc. by having received the benefits described above without repayment pursuant to the terms of the Note and Mortgage.
34. As such, the Plaintiff, Lakeview Loan Servicing, LLC, is entitled to relief

PRAYERS FOR RELIEF

WHEREFORE, Plaintiff, Lakeview Loan Servicing, LLC, prays this Honorable Court:

Find that the Defendants entered into a contract for a sum certain in exchange for a security interest in the subject property.

- a. Determine that there has been a breach of condition of the Mortgage;
- b. Find that Plaintiff, Lakeview Loan Servicing, LLC, is entitled to enforce the terms and conditions of the Note and Mortgage;

- c. Determine the amounts due under the Note and secured by the Mortgage, including principal, interest, reasonable attorney's fees, court costs and other expenses;
- d. Find that the Defendant Angela L. Brown is liable for any deficiency balance remaining due to Plaintiff after the sale of the mortgaged real estate and application of the proceeds of sale (this prayer is void for any Defendant that did not execute the Note or Guaranty and for any Defendant who has been granted discharge in bankruptcy);
- e. Issue a Judgment of Foreclosure and Sale in conformity with Title 14, M.R.S. § 6322;
- f. Order exclusive possession of the real estate to Plaintiff upon the expiration of the statutory ninety (90) day period of redemption and direct the clerk to issue a Writ of Possession at the request of Plaintiff;
- g. Find that by virtue of the Note and Mortgage, the Defendants, Angela L. Brown and Joseph Caroto, have been unjustly enriched at the Plaintiff's expense; and

h. Order such other and further relief as this Honorable Court deems just and proper.

Respectfully submitted,

Lakeview Loan Servicing, LLC

By its Attorneys,
BENDETT & MCHUGH, P.C.

Dated: December 5, 2018

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